IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 403 OF 2006
IN
WRIT PETITION NO. 691 OF 2006

Oval Cooperage Residents Association and others ...

Petitioners

Versus

The State of Maharashtra and others ...
Respondents

Mr. R.A. Jahagirdar, Senior Advocate, instructed by Mr. S.M. Gorwadkar for respondent No.3 in support.

Mr. M.S. Doctor, instructed by M/s. Kanga & Company, for the petitioners to show cause.

Mr. K.R. Belosay, Government Pleader, for respondent Nos.1 and 2 to show cause.

CORAM: **H.L. GOKHALE, Ag. C.J.,** &
V.M. KANADE, J.

DATE: **FEBRUARY 07, 2007**.

P.C.

Heard Mr. Jahagirdar in support of this Motion which is taken out by original respondent No.3. Mr. Doctor appears for the original petitioners. Prayer clause (a) has four sub-prayers. As far as prayer clause (a) (i) is concerned, the same was dismissed as not pressed

when the matter was heard by another Division Bench on 14th September, 2006. As far as the remaining prayer clauses i.e. (a) (ii). (iii) and (iv) are concerned, the Division Bench which heard the matter on 14th September, 2006, has recorded in paragraph 7 of its order that in view of the consent minutes of order dated 20th April, 1995, the Court found it difficult to accede those prayers. At the same time, in the interest of the players for whom those facilities were sought to be put up, the Court noted that an application had been made on behalf of respondent No.3 to the Heritage Committee. This is because the Oval Maidan on which respondent No.3 is seeking to put up these small facilities is notified as a Heritage Maidan. The Heritage Committee was to decide three aspects as mentioned in paragraph 7 of the order dated 14th September, 2006, viz. (i) provision for urinal, (ii) provision for a tent admeasuring about 10' x 15' which may be used as a change room/change area; and (iii) provision for sight screens. That application has been since heard and decided by the Heritage Committee. The Heritage Committee has given a report which has been forwarded with a covering letter dated 27th November, 2006. The Committee has considered the suggestion as to whether any such portable toilets should be permitted or similarly portable changing room should be permitted and in no uncertain terms the Committee has taken

the view that the same should not be permitted. The Committee is of the view that there are municipal toilets available nearby which should be used for the players. The Committee has also observed that, if necessary, some toilets could be added to the existing public toilets nearby.

2. Mr. Jahagirdar, learned counsel appearing for respondent No.3, informs us that respondent No.3 proposes to represent to the Municipal Commissioner to whom such a further representation is stated to be available against the decision of the Heritage Committee. This being the position, in our view, the best course will be that respondent No.3 ought to follow this remedy, if available to them. The Municipal Commissioner will, of course, hear the original petitioners, who are objecting to any such construction being added, and decide the representation. As far as this Motion is concerned, in our view, we need not depart from whatever has been done so far and, therefore, we dispose of this Motion without altering the earlier order which was passed when the consent terms were drawn between the parties. Notice of Motion is disposed of.

ACTING CHIEF JUSTICE

V.M. KANADE, J.